IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

ORDER

Mohan Lal & Another Vs. Board of Revenue for Rajasthan Ajmer & Others
(SB Civil Writ Petition No.5856/1999)

SB Civil Writ Petition under Article
226 & 227 of the Constitution of India.

Date of order: October 18, 2006.

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA

Mr. Kamlakar Sharma, for the petitioner.

Mr. R.P. Kuldeep, Addl.Government Advocate for State.

BY THE COURT:

By this writ of certiorari the petitioners seek to quash the orders dated January 11, 1999 and December 23, 1997 respectively passed by the Board of Revenue and Additional Collector (Adm.) Bundi.

2. Contextual facts depict that ceiling proceedings with regard to holdings of the ancestral land of petitioners were initiated under the Rajasthan Imposition of Ceiling on Agricultural Holdings Act,1966 (for short `1966 Act'). The Sub Divisional Officer Bundi vide orders dated April 24, 1975 and October 23, 1975 held that since the father of petitioners was having 7 bighas 13 biswas of land in excess to the prescribed limit acquisition of excess land was required.

3. The State Government under section 15(2) of Rajasthan Imposition of Ceiling on Agricultural Holdings Act,1973 passed the order dated December 11, 1980 whereby the orders dated April 24, 1975 and October 23, 1975 of

the SDO Bundi were quashed and Ceiling Matter got re-opened. The Collector Bundi was appointed as Authorised Officer to consider the matter afresh. The Additional Collector (Adm) Bundi conducted detailed enquiry into the matter and vide order dated October 27, 1993 held that the land of petitioners was ancestral. Since on April 1, 1966 the petitioners were major, they were liable to be recognised as separate units and entitled to retain 30 standard acres of land. On April 1, 1966 43.89 standard acre was existing in the khata of land holder (Chhitar), who was alive and his son (Mohan Lal) was major, thus both the persons were entitled to 60 standard acres of land. The land (43.89 standard acres) therefore was less than the ceiling limits and the ceiling proceedings were required to be dropped. Consequently the land earlier acquired vide order dated October 23, 1975 was ordered to restore back to the petitioners.

4. The State Government filed review application against the order dated October 27, 1993 on the ground that the authorised officer was not empowered to restore the land back. The Additional Collector Bundi vide order dated December 23, 1997 allowed the review application and quashed the order December 27, 1993.

The appeal preferred by the petitioners was dismissed vide order dated January 11, 1999. Hence thus writ petition.

5. I have heard learned counsel for the parties.

6. The Additional Collector in the order dated December 23, 1997 while deciding the review application observed as under:-

> "जिला कलेक्टर महोदय के द्वारा राजकीय अभिभाषक द्वारा रिव्यू प्रार्थना पत्र सीलिंग विभाग राज. जयपुर की पालना में प्रस्तुत किया है। सीलिंग कानून के प्रावधानों के अनुसार आदेश को

रिव्यू किया जा सकता है। वकील अप्रार्थी ने इस तर्क के सम्बन्ध में रिव्यू नहीं किये जाने बाबत कोई प्रावधान कानून का प्रस्तुत नहीं किया। ऐसी सूरत में राजकीय अभिभाषक के तर्क से सहमत होकर रिव्यू प्रार्थना पत्र को स्वीकार किया जाता है। निर्णय दिनांक 27-10-94 निरस्त किया जाता है।"

A look at the afore quoted observation goes to show that the earlier order dated October 27, 1993 was not properly considered. The reasons to review the earlier order have not been assigned. The order appears to have been passed mechanically.

7. Order 47 of the Code of Civil Procedure provides for the review of judgment but the scope of such review is very limited. Review of judgment may be allowed on three grounds namely:-

> (i) Discovery of new and important matter of evidence which, after the exercise of due diligence, was not within the knowledge of the applicant or could not be produced by him at the time when the order was made, or
> (ii) Some mistake or error apparent on the face of the record, or
> (iii) For any other sufficient reason.

8. Evidently none of the above grounds existed and therefore application seeking review could not have been allowed. Board of Revenue did not properly examine the legal provision and therefore both the orders deserve to be set aside.

9. For these reasons, I allow the writ petition and set aside the orders dated January 11, 1999 and December 23, 1997. I restore the order dated October 27, 1993 rendered by the Additional Collector (Adm) Bundi. No costs.

(Shiv Kumar Sharma)J.

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